

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 04-CR-40

WILLIAM N. MARTIN, JR.,

Defendant.

ORDER

On May 13, 2005, the defendant in the above matter pleaded guilty to counts 2, 4 and 13 of the Fourth Superseding Indictment. Counts 2 and 4 alleged the production of child pornography from on or about October 25, 2002 and September 6, 2002 respectively. Count 13 alleged possession of child pornography on January 23, 2004. The plea agreement in the case called for both government and the defense to recommend *inter alia*, nine years of supervised release as part of the defendant's sentence.

On October 4, 2005, the court sentenced the defendant to a total of fifty years imprisonment and nine years of supervised release. Specifically, and pursuant to the parties' request, the court ordered three years of supervised release on counts 2, 4 and 13, with each term to run consecutively. At the same time, however, the court drew the parties' attention to 18 U.S.C. § 3624(e), and noted that the sentence it had imposed may be illegal under that provision. By its terms, § 3624(e) appears to prohibit consecutive terms of supervised release.

Presently before me is the government's motion to correct the sentence. The government, having reviewed § 3624(e) is in agreement that the terms of supervised release cannot be imposed consecutively to one another. The government also notes, however, that count 13 authorized a term of supervised release "for any term of years or life." *See* 18 U.S.C. § 3583(k).

Based upon the foregoing, the government has requested that the court correct its sentence by first imposing a term of supervised release on count 13 that is consistent with the court's intent and statutory authority, and that the supervised release on the remaining counts be ordered to run concurrently. The defense has responded to the government's motion and appears to be in agreement with its analysis and proposal.

Accordingly, it is hereby ordered that the sentence in the above matter shall be corrected as follows: The court hereby imposes a term of supervised release on count 13 of nine years. In light of the fact that the court has sentenced the defendant to fifty years of confinement, the court concludes that a nine year term of supervised release will insure protection of the public for the remainder, if any, of the defendant's life upon his release from custody. The terms of supervised release on the remaining counts shall be three years as originally ordered. Each term of supervised release shall run concurrent to the other.

SO ORDERED.

Dated this 12th day of August, 2005.

s/ William C. Griesbach

William C. Griesbach
United States District Judge